

II. REMARKS/ARGUMENTS

Reconsideration of the above-identified application in view of the preceding amendments and the following remarks is respectfully requested. Claims 1-7, 9-20, and 22-26 are presently pending in this application. By this amendment, Claims 1-7, 9-20, and 22-26 are canceled, without prejudice, and Claims 27-42 are added. The specification and the drawings provide support for all of the newly added claims. No new matter has been added by this amendment.

a) Miscellaneous Amendments

Applicants have amended the title of the invention so that the title encompasses the various embodiments of the invention. Support for this amendment is found in the specification wherein embodiments of the invention are described as, for example, a friendship bracelet for wearing on the wrist (see page 7, lines 23-24), a friendship necklace (see page 10, lines 12-15), and a friendship ankle bracelet (see page 10, line 19). The various embodiments all include closed loop members.

In the Office Action Applicants are reminded of the proper language and format for an Abstract of the Disclosure. More particularly, Applicants are reminded that the Abstract of the Disclosure should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 250 words. Applicants have amended the Abstract of the Disclosure to conform with the prescribed form.

b) Remarks/Arguments Regarding Rejections Of Claims 1-7, 9-20, And 22-26 Under 35 U.S.C. § 103 (a)

In the Office Action, Claims 1-7, 9-20, and 22-26 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over U.S. Patent No. 1,694,703 to Doppenschmitt in view of U.S. Patent No. 4,179,833 to Knodel.

Applicants have canceled Claims 1-7, 9-20, and 22-26 and added new Claims 27-42. The cancellation of claims and addition of new claims were made for purposes unrelated to patentability. More specifically, Claims 1-7, 9-20, and 22-26 were canceled

because Applicants' amendments to claims made in the Preliminary Amendment filed April 24, 2000 were not consistent with amendments to claims made in the Amendment filed July 27, 1999. For example, in Applicants' July 27, 1999 Amendment Claim 1 was amended as follows:

1. (Amended). A friendship bracelet for wearing on the wrist, comprising:
 - a) a wristband formed of [an outer fabric material and an inner] stretchable elastic material and including releasable closure means for opening and closing said wristband

In Applicants' April 24, 2000 Amendment, which should have been consistent with Applicants' July 27, 1999 Amendment, Claim 1 was amended as follows:

1. (Amended). A friendship bracelet for wearing on the wrist, comprising:
 - a) a wristband formed of [an outer fabric material and an inner] stretchable elastic material and including releasable closure means for opening and closing the ends of said wristband

In addition, the cancellation of claims and addition of new claims were made to more broadly claim that which Applicants consider their invention. For example, the language in newly added Claim 1 (e.g., "friendship band") now captures wrist bracelets, neckbands, and ankle bracelets. This broad approach is carried throughout newly added Claims 27-42.

Furthermore, the cancellation of claims and addition of new claims were made to include embodiments of the disclosed invention that were not included in the cancelled claims. For example, the embodiment claimed in newly added Claim 32 claims a friendship band wherein each closed loop member must be elastically expanded to pass over at least one closure means portion to remove each closed loop member from the friendship band. An advantage of this embodiment is that closed loop members cannot inadvertently slide off the band section and be lost. Support for this embodiment is found in Fig. 4 where clasp 44C is shown to have a cross-section that is larger than the loop openings of the closed loop members (e.g., 60' and 60''), and at page 9, lines 6-9, where

closed loop members are described as being made of elastic materials (e.g., nylon and silk).

Applicants have carefully reviewed the references cited in the Notice of References Cited (PTO-892) and respectfully submit that none of the references disclose or suggest, either alone or in combination, in whole or in part, each and every limitation in newly added Claims 27-42. More particularly, Applicants submit that the references applied in the Office Action, i.e., Doppenschmitt and Knodel, do not disclose or suggest, either alone or in combination, in whole or in part, each and every limitation of newly added Claims 27-42.

Doppenschmitt discloses an article of jewelry that includes beads (1) having indicia thereon that are mounted upon a tubular member (2) that receives and encloses a core (3). The core (3) is composed of a flat strip or band of spring steel. (See page 1, lines 95-102, and Figs. 1 and 2.)

Knodel discloses an information reminding device that includes a strap-like body portion (10), an end connecting means (12) (e.g., Velcro) attached to the ends of the body portion, and a plurality of tabs (14) mounted onto the body portion and bearing messages thereon. The device is designed for attachment to a person's wrist. The tabs are arranged for removable attachment to the body portion and are tiltable in opposite directions between indicating and non-indicating positions. (See Col. 1, lines 26-38, and Figs. 1-3.)

Independent Claim 27 discloses a friendship band with exchangeable closed loop members including a band section made of a first material that is flat in cross-section and has first and second ends; a closure means attached to the first and second ends of the band section for releasably connecting the first end to the second end; and a plurality of closed loop members mounted on the band section, each closed loop member is made of a second material that is flat in cross-section, has a loop opening that conforms to the cross-section of the band section when mounted thereon, includes an indicia on a portion of an exposed surface thereof, and is removable from the first or second end of the band section so it may be exchangeable with closed loop members of other friendship bands.

Doppenschmitt and Knodel do not disclose or suggest, either alone or in combination, in whole or in part, each and every limitation of newly added Claim 27.

For example, Doppenschmitt does not disclose a closure means for opening and closing the ends of the core. Doppenschmitt also does not disclose a core made of fabric material. In fact Doppenschmitt teaches away from certain embodiments of Applicants' invention wherein the band section is made of elastic material (that is, material that allows the band section to be elongated by stretching) by describing them as having inherent defects. Doppenschmitt states:

“If the article [of jewelry], for example, is composed of beads strung upon a core composed of an elastic cord or tape, stretching of the tape, which very quickly occurs, causes deformation of the article and gaping of the beads, producing exposure of the unsightly cord or tape. The rubber content of the cord or tape also quickly rots, especially under certain climatic conditions, destroying the integrity of the article.” (See page 1, lines 32-41.)

Knodel does not disclose a plurality of closed loop members mounted on a band section, each closed loop member made of a material that is flat in cross-section, has a loop opening that conforms to the cross-section of the band section when mounted thereon, and includes an indicia on a portion of an exposed surface thereof. In fact Knodel teaches away from embodiments of Applicants' invention (e.g., friendship necklace) because Knodel's information reminding device must be worn snugly on a person's wrist so that the tabs can be tiltable in opposite directions between indicating and non-indicating positions.

It is important to note that in rejecting canceled Claims 1 and 13 in the Office Action, the Examiner concluded without factual support that:

“[I]t would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the bracelet/necklace of Doppenschmitt to include a releasable closure means [as taught by Knodel] for opening and closing the ends of the bracelet in the form of hook and loop fasteners (Velcro) thereby enhancing securement thereof to the body.” (See page 3, first paragraph.)

Applicant respectfully submits that Examiner's statement is insufficient for supporting an obviousness rejection. It is well established that the examiner bears the initial burden of

factually supporting any *prima facie* conclusion of obviousness. To establish a *prima facie* case of obviousness there must be some suggestion or motivation in the references to modify or combine their teachings. (M.P.E.P. 4142, 4143, and 4143.01.) Neither Doppenschmitt nor Knodel provide a suggestion or motivation to make the invention disclosed and claimed by the Applicants. Accordingly, Claim 27 is not rendered obvious by Doppenschmitt and Knodel. Furthermore, because Claims 28-40 depend from Claim 27, Claims 28-40 are also considered allowable over Doppenschmitt and Knodel.

Independent Claims 41 and 42 alternatively claim methods of using friendship bands. Neither Doppenschmitt nor Knodel disclose or suggest, either alone or in combination, in whole or in part, each and every limitation of independent Claims 41 and 42. More particularly, neither Doppenschmitt nor Knodel disclose or suggest, either alone or in combination, in whole or in part, a method of using friendship bands including the steps of providing a first friendship band including a band section having releasable closure means and a plurality of closed loop members each having a first indicia thereon and mounted onto the band section; opening the closure means of the first friendship band and removing one of the plurality of closed loop members having first indicia thereon; exchanging the removed one of the plurality of closed loop members with a closed loop member having a second indicia thereon removed from a second friendship band; and replacing the closed loop member having a second indicia thereon onto the first friendship band and connecting the closure means thereof.

In rejecting canceled Claim 12 in the Office Action the Examiner concluded without factual support that:

“[A]lthough Doppenschmitt, as modified by Knodel, fails to disclose the specific method of using the bracelet as claimed by the applicant, Doppenschmitt, as modified by Knodel, does disclose all the claimed structure of the bracelet and therefore it is being viewed as obvious to one of ordinary skill in the art at the time the invention was made to use the bracelet as claimed by the applicant.” (See page 4, first full paragraph.)

For the reasons provided herein above with respect to newly added Claim 27-40, Applicants’ respectfully submit that Doppenschmitt cannot be modified by Knodel as suggested by the Examiner, therefore, it does not disclose all the claimed structure.

Accordingly, newly added Claims 41 and 42 are not rendered obvious by Doppenschmitt and Knodel.

Applicants respectfully request examination of newly added Claims 27-42 in light of the above amendments and remarks/arguments.

III. VERSION WITH MARKINGS TO SHOW CHANGES MADE

Markings to show changes made to the title of the invention:

FRIENDSHIP BAND BRACELET WITH EXCHANGEABLE CLOSED LOOP
MEMBERS ELEMENTS

Markings to show changes made to the Abstract of the Disclosure:

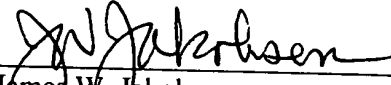
A friendship band with exchangeable closed loop members is disclosed. The friendship band may be configured to be worn as a wrist bracelet, ankle bracelet, and a necklace. A friendship bracelet having exchangeable elements thereon for wearing on the wrist. The friendship wrist bracelet includes a wristband formed of stretchable material and having releasable closure means members for opening and closing the wristband. A plurality of closed loop members are slidably removable from the wristband for exchanging with the closed loop members of other ones of the wristbands. Each of the plurality of closed loop members having first indicia thereon for exchanging with the closed loop members of other ones of the wristbands having second, third and fourth indicia thereon.

IV. CLOSING COMMENTS

Due to circumstances beyond their control, Applicants were recently forced to acquire new patent counsel to assist in the prosecution of this application. After reviewing the Preliminary Amendment filed on April 24, 2000 Applicants believe that the Preliminary Amendment was an inadequate response to the Office Action dated October 8, 1999 (the Preliminary Amendment was almost identical to Applicants' July 27, 1999 response), and therefore that they lost an opportunity to obtain patentable claims. For this reason, Applicants respectfully request that any Office Action in response to this Amendment not be made final. In addition, Applicants respectfully request a telephonic interview with the Examiner at his/her earliest convenience to discuss this Amendment prior to preparation of an Office Action.

Date: February 14, 2002

Respectfully submitted,
Attorneys for Applicants
PILLSBURY WINTHROP LLP



James W. Jakobsen
Registration No. 38,505
Financial Centre
695 East Main Street
Stamford, CT 06901
Telephone: 203-965-8271
Facsimile: 203-965-8226